IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CIVIL APPELLATE JURISDICTION

A. O. NO. 716 OF 2004

Smt. S. N. Mitha ... Appellant
vs.
Maruti N. Sarawde ... Respondent

Mr. M. R. Deshpande for appellant
Mr. S. Sakhare for respondent nos. 1 and 2.
Mr. G. S. Godbole i/b. R. R. Mahagaonkar for respondent nos. 4 to 9.

CORAM: D. G. KARNIK **J.**

DATE: 10th April 2007

P.C.:

1. Heard learned counsel for the parties.
2. This appeal at the instance of original defendant no.1A is directed against the judgment and order dated 3rd July 2004 passed by the Joint Civil Judge, Senior Division, Solapur, directing the appellants to maintain status quo in respect of the suit property.
3. The impugned order dated 3rd July 2004 was also challenged by the original defendant nos. 2 to 7 by filing an appeal, bearing A.O. No. 717 of 2004. By an order dated 21st December 2006 this court allowed A.O. No. 717 of 2004, set aside the impugned order and remanded the matter back to the trial court for deciding it afresh in the light of the observations made therein. Since the impugned order has

already been set aside no further orders are necessary in this appeal. Suffice it to say that the order dated 21st December 2006 passed in A.O. No. 717 of 2004 would govern this appeal also.

4. Learned counsel for the appellant however submitted that the alleged agreement of sale dated 16th November 1999 is not properly stamped and this court, by an order dated 13th December 2006 had directed the Registrar (Judicial) to impound the document and take further steps in the mater. The Registrar (Judicial) has submitted his report. Since the matter is now being remanded to the trial court, no useful purpose would be served by keeping the document in this court as otherwise the parties may not be able to lead evidence proving the document. It would therefore be appropriate to direct the registry to send the impounded document to the trial court. Accordingly it is ordered that the alleged agreement of sale dated 16th November 1999 (marked 'X' for identification) be also sent to the trial court along with the records, if any. The trial court shall take necessary action for impounding and recovery of stamp duty and penalty in accordance with law. Appeal is disposed of accordingly.

(D.G. KARNIK J.)